

S/N 10/697,788

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Michael J. BULLINGER	Examiner:	Phi Dieu Tran A
Serial No.:	10/697,788	Group Art Unit:	3637
Filed:	October 30, 2003	Docket No.:	10226.0010US11
Customer No.	23552	Confirmation No.	1146
Title:	GUTTER AND COVER SYSTEM		

DECLARATION OF BRADLEY P. OLSON

1. I Bradley P. Olson, am the Production Manager for Eastside Machine Company, Inc., with an address of 474 – 45th Street South, Fargo, North Dakota 58108, the Assignee of U.S. Patent Application Serial No. 10/697,788 entitled GUTTER AND COVER SYSTEM.
2. I have been employed with Eastside Machine Company, Inc. since 1992 and have been involved in the design and development of products, including siding, gutter supports and systems for 18 years.
3. I have reviewed the Office Action dated January 28, 2010 and the references cited in the Office Action. In the Office Action, claim 10 was rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Action states that the claims contain subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time of the application filing, had possession of the claimed invention. The Action states that the newly added limitation of “continuously crimped” is not supported by the original specification. I have reviewed the specification as originally filed. In the original application, Figures 9 and 10 are described on page 8, line 3 through page 9, line 4. The forming apparatus 1000 forms and joins a cover 112 to a separate gutter portion 110. The specification states that the lip portion 114 is configured to slide over the upper end of the rear wall 117 and they are pressed together and aligned by a guide roller 1030 and a pair of opposed guide rolls 1032. A press roll 1034 presses the lip portion 114 downward onto the upper end of the rear wall 117. An opposed punch roll

1036 and die roll 1038 crimp and interlock the cover portion to the gutter portion to create an interlocked gutter and cover system 110. The specification states that the structure is a single, seamless complete gutter and cover system that is then cut to length at a cutting station 1020, shown in Figure 9. From my review of the drawings and cited passages, it is clear that the forming process must be continuous with the guide rolls positioned to always engage the elements. Therefore, one of ordinary skill in the art would clearly understand from the specification and drawings that the crimping takes place along the entire length of the gutter and cover system.

4. As the gutter and cover system shows a system that is crimped along its entire length, it is my opinion that the specification does support the language reciting "continuously crimped" in the claims.

5. I have also reviewed the Amendment attached herewith, reciting that the continuous crimping occurs along the entire length of the gutter and cover system. It is my opinion that this language provides clarification as to what is continuously crimped and would be readily understood by one of ordinary skill in the art in view of the originally filed specification and drawings.

6. I have reviewed the cited patent to Knudson. The drawings and specification state that the cover is removable. Therefore, one of ordinary skill in the art would understand that the elements are not crimped together. Such gutter and cover systems are known that provide a close fit and provide for removing the cover from the gutter as shown in the Knudson reference.

7. It is my opinion that the Knudson reference is not characterized correctly in the Office Action and does not show or suggest to one of ordinary skill in the art of gutter and cover manufacturing, a system wherein the gutter and cover are joined by continuously crimping along the entire length.

8. I am also familiar with the development of the system shown in Application Serial No. 10/697,788 and to the particular configuration and relative relationship between the various guides and rollers that allowed for producing the integral system with the gutter and cover continuously crimped along the entire length as the gutter and cover were formed and then simply being cut to length. The invention of Application Serial No. 10/697,788 provides surprising results as previous systems would have required joining of the systems in the field rather than being manufactured in a continuous manner and then simply being cut to length. It is my opinion that the gutter and cover system described in Serial No. 10/697,788 is not shown and would be obvious to one of ordinary skill in the art.

Being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Title 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the application or any resulting patent, I declare that I am properly authorized to execute this declaration; and all statements made of my own knowledge are true and all statements made on information and belief are believed to be true.

Further your declarant sayeth not.

Date:

June 27, 2010

By:

Bradley P. Olson

Bradley P. Olson

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